

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIM. CASE NO. 12-20274

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

THOMAS FIELDS,

Defendant.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION DENYING DEFENDANT’S MOTION TO VACATE,
SET ASIDE, OR CORRECT SENTENCE UNDER 28 U.S.C. §2255**

The Court having read the Magistrate Judge’s February 7, 2014 Report and Recommendation (Dkt. #29), and Defendant’s Objections to Report and Recommendation (Dkt. 30), adopts the Magistrate Judge’s Report and Recommendation, and for the reasons well-stated therein.

The Court also notes that in *Leocal v. Ashcroft*, 125 S.Ct. 377 (2004), the Supreme Court pointed out that Title 18 U.S.C. §16(a) defines “crime of violence” to include the use or attempted use of physically force against the person or property of another. *Id.* 382. “A burglary would be covered under §16(b) not because the offense can be committed in a generally reckless way or because someone may be injured, but because burglary by its nature, involves a substantial risk that the burglar will use force against a victim in completing the crime.” *Id.* 383 (emphasis in original).

Accordingly, the Court DENIES Defendant's Motion to Vacate, Set Aside or Correct Sentencing per 28 U.S.C. §2255.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: April 2, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 2, 2014.

s/Deborah Tofil
Case Manager